

ENTERED

March 15, 2017

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ROBERT LEE WALLACE,

Petitioner,

v.

LORIE DAVIS,

Respondent.§
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CIVIL ACTION NO. H-16-3176

ORDER OF DISMISSAL


Petitioner, a state inmate proceeding *pro se*, filed this section 2254 habeas lawsuit challenging his state conviction. Respondent filed a motion for summary judgment on February 3, 2017, and served a copy of the motion on petitioner at his address of record that same date. (Docket Entry No. 10.)

To-date, and despite expiration of a reasonable period of time of forty days, petitioner has failed to file a response to the motion for summary judgment. The Court warned petitioner that his failure to respond timely to a dispositive motion may result in the dismissal of this lawsuit for failure to prosecute and/or failure to comply with the Court's order to file a response.

Accordingly, this lawsuit is DISMISSED WITHOUT PREJUDICE for want of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and for petitioner's failure to comply with the Court's order to file a response. All pending motions are DENIED AS MOOT. Any timely-filed motion for new trial must be

accompanied by a response to the motion for summary judgment. Any motion for new trial filed without the response will be dismissed as non-compliant.

Signed at Houston, Texas on March 15, 2017.



Gray H. Miller
United States District Judge